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OFFICE OF PETITIONS

In re Application of	:	
Clare L. Hoke	:	
Application No. 09/918,761	:	ON PETITION
Filed: August 1, 2001	:	
Attorney Docket No:	:	

This is a decision on the petition under 37 CFR 1.137(a), filed September 24, 2003, to revive the above-identified application.

The petition is **dismissed at moot**.

The instant petition under 37 CFR 1.137(a) was filed presumably because applicant believed that the application was abandoned for failure to respond to an Office action mailed June 3, 2003, which allowed a one month period for reply. Applicant is advised that the application is not yet considered abandoned because the June 3, 2003, Office action allowed for extensions of time pursuant to 37 CFR 1.136(a). The time period for responding to the Office action could, therefore, be extended for a maximum of six months from the mailing date of the Office action. The instant petition is moot because the application is not yet abandoned because a proper response can still be timely submit if an extension of time under 37 CFR 1.136(a) is obtained.

Although a response to the Office action was received with the petition, the Office had no way of charging the appropriate fee of \$475.00 for the extension of time within the third month. At this juncture, applicant may only obtain an extension of time. Applicant is cautioned that a petition under 37 CFR 1.137(a) requires that the abandonment of the application be unavoidable and applicant must establish that the entire delay—from the due date for a response to the filing of a grantable petition—was unavoidable. If applicant does not file a timely response to this decision—in the form of an extension of time pursuant to 37 CFR 1.136 as the replacement specification has already been received—it is unlikely that a petition under 37 CFR 1.137(a) will be considered grantable because applicant will have intentionally waited for application to become abandoned.

Although applicant is encouraged to obtain an extension of time as soon possible, applicant is given **TWO MONTHS** from the mailing date of this decision in which to file a response. Extensions of time under 37 CFR 1.136(a) are permitted. If a timely response is not received, the application will become abandoned. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C § 704.

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Further correspondence with respect to this matter should be addressed as follows:

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